IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1472 of 1999

in

SPECIAL CIVIL APPLICATIONNo 2710 of 1997
with
CIVIL APPLICATION NO.12631 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE RAVI R. TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BACHUBHAI BHALLABHAI SANGADA

Versus

UNION OF INDIA

Appearance:
MR VD PARGHI for Appellant
MR NAVIN K PAHWA for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2, 3

CORAM : MR.JUSTICE B.C.PATEL

and

MR.JUSTICE RAVI R. TRIPATHI

Date of decision: 08/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE B.C.PATEL)

Against the judgement rendered by learned single Judge in Special Civil Application No.2710 of 1997 on 22.10.1999 the present appeal is preferred by the original petitioner.

2 In the petition the petitioner has claimed following reliefs:-

() The respondent be directed by a writ of mandamus to appoint the petitioner in Accounts Department of the Food Corporation of India as per his option; and

(ii) By appropriate writ, order or direction the respondents be directed to transfer the petitioner to the Accounts Cadre with retrospective effect from 1994 with consequential benefits.

In para 16(b) of the petition the petitioner has given the details of the persons working in the Accounts Department though they were not commerce graduates. The petitioner has made averments that in the Accounts Cadre candidates belonging to Scheduled Tribes were not appointed and thus consciously or subconsciously the caste bias has played the role.

3 It is further averred that the petitioner was asked to exercise the option in the year 1984-85 vide circular dated 17.1.1984. The petitioner exercised his option for the Accounts Department. However, his case was not considered. It is further pointed out in para 14 of the petition that in the year 1984 several persons who were not possessing the qualifications or experience were not only considered but were appointed in the Accounts Department and he has mentioned names of five such persons who were Graduates with History, English or Sanskrit as their subjects. The petitioner has pointed out that in view of this since he is Arts Graduate, his request ought to have been considered.

4 On behalf of the respondent - Food Corporation of India one Shri S.K. Gulabani has filed affidavit. In para 3 of the said affidavit it is pointed out that the

respondent-corporation has issued circular dated 10.09.1986 for the direct recruitment for the post of A.G. III (A/c). As required by that circular, the applicant should be Commerce Graduate with Maths and Statistics. It is pointed out that the petitioner was not qualified and was lacking in the requisite criteria for the eligibility for the post in question and therefore he was not considered. However, it is pointed out that he was called for the interview for the post of AG III (General) as he was a Graduate in Arts with Economics and Statistics as his subjects. According to the respondent-corporation the petitioner seems to be in confused state of mind in amalgamation or on putting on par two different posts, namely, AG III (A/c) and AG III (General). It is further contended that the petitioner himself did not appear for interview for AG III (Gen.).

5 In further affidavit it is pointed out that the petitioner was appointed in Depot cadre and was working in Accounts Department. The petitioner was seeking the post in Accounts Cadre in pursuance of his option given in 1984.

6 It is pointed out that the employees were allowed to exercise the option earlier in 1997 on the basis of experience in the Finance Division irrespective of their academic qualifications. So far as the petitioner is concerned, he refers to the incidents of inviting applications during 1986 for direct recruitment. So far as the same is concerned, the requisite qualification was provided therein and the petitioner did not possess the qualification and therefore he was not called for an interview.

7 So far as earlier incident of 1977 is concerned, it is pointed out that the vacancies were filled in in accordance with the seniority and experience. Those who were senior to the petitioner and those who possess wider experience were selected by the Committee. It is specifically stated that not a single person junior to the petitioner has been appointed.

8 This Court by an order dated 22.2.2000 called upon the respondent to consider the case of the petitioner. A report is placed on record today, wherein it is pointed out that many other AGs III with accounts qualification and/or accounts working experience who are much senior to the petitioner were also not considered for want of vacancy. It is emphasised that none of his juniors were transferred during 1994 also.

9 From the aforesaid discussion, it is clear that no injustice is caused to the petitioner and our interference is not called for in the appeal. Hence the appeal is dismissed. No order in the Civil Application.

08.01.20001 (B.C.PATEL J.)

(R.R.TRIPATHI, J.)
(mohd)